

Senate File 2294

AN ACT
RELATING TO THE AUTHORIZED ACTIVITIES OF AUCTIONEERS IN
CONDUCTING A PUBLIC SALE OR AUCTION OF REAL ESTATE, AND
PROVIDING PENALTY PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 543B.7, subsection 5, Code 2011, is amended to read as follows:

5. The acts of an auctioneer who is not a licensee in conducting a public sale or auction, as provided in this subsection.

a. The auctioneer's role must be limited to establishing the time, place, and method of an auction; advertising the auction including which shall be limited to a brief description of the property for auction and the time and place for the auction; and crying the property at the auction.

(1) The auctioneer shall provide in any advertising the name and address of the real estate broker who is providing brokerage services for the transaction and the name of the real estate broker, or attorney, or closing company who is responsible for closing the sale of the property.

(2) The real estate broker providing brokerage services shall be present at the time of the auction and, if found to be in violation of this subsection, shall be subject to a civil penalty of ~~two~~ one thousand ~~five hundred~~ dollars.

(3) If the auctioneer closes or attempts to close the sale of the property or otherwise engages in acts defined in sections 543B.3 and 543B.6, or paragraph "b" of this subsection, then the requirements of this chapter do apply to the auctioneer.

b. An auctioneer who is not a licensee is expressly prohibited from engaging in the following acts:

(1) Contacting the public regarding real property beyond that which is permitted under this section with the purpose of securing or facilitating the sale of such real property.

(2) Independently showing property or hosting open houses.

(3) Making material and substantive representations regarding title, financing, or closings.

(4) Discussing or explaining a contract, lease, agreement, or other real estate document, other than the contract for conducting the auction or other acts permitted by this subsection, with a prospective buyer, owner, or tenant of the real property, with the purpose of securing or facilitating the sale of such real property.

(5) Collecting or holding deposit moneys, rent, other moneys, or anything of value received from the owner of real property or from a prospective buyer or tenant, other than fees, commissions, or other consideration paid in exchange for conducting the auction or other acts permitted by this subsection, with the purpose of securing or facilitating the sale of such real property.

(6) Providing owners of real property or prospective buyers or tenants with advice, recommendations, or suggestions regarding the sale, purchase, exchange, rental, or leasing of real property, except with regard to acts permitted under this subsection.

(7) Falsely representing in any manner, orally or in writing, that the auctioneer is a licensee.

c. If an investigation pursuant to this chapter reveals that an auctioneer has violated this subsection or has assumed to act in the capacity of a real estate broker or real estate salesperson, the real estate commission ~~may~~ shall issue a cease and desist order, and shall ~~issue a warning letter notifying the auctioneer of the violation~~ impose a penalty of one

thousand dollars for the first offense, and impose a penalty of up to the greater of ten thousand dollars or ten percent of the real estate sales price for each subsequent violation.

JOHN P. KIBBIE
President of the Senate

KRAIG PAULSEN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2294, Eighty-fourth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2012

TERRY E. BRANSTAD
Governor